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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,667	04/13/2000	James A. Shields	11418ROUS01	7694

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EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

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DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/548,667

Applicant(s)

SHIELDS ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,12,14,15,18-31 and 34-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 11,12,14,15,18-21,24-31 and 34-36 is/are rejected.

- 7) ☒ Claim(s) 22 and 23 is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 18-21 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steven Chapman (GB 2286745A) in view of Gorshe et al. (U.S. Patent 6,667,973 B1).

For claims 18-21 and 24-26, Steven Chapman disclose path protection in an SDH network, comprising:

a link between said adaptive rate interfaces for accommodating a traffic pipe of a first BW corresponding to said fast rate during normal operation (figure 1, page 5 lines 2-4), and a squeezed traffic pipe of a second BW corresponding to said-slow rate during the protection switch (figure 2, page 11 lines 8-13 and page 12 line 20); and

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protection switching means for detecting an interruption in a flow of traffic through said traffic pipe and operating the protection switch in response to the interruption (page 6 lines 19-21).

However, Steven Chapman does not disclose an adaptive rate interface at each said end node for changing the transmit and receive rate of traffic from a fast rate to a slow rate during a protection switch and from the slow rate to the fast rate upon return to normal operation from the protection switch. In an analogous art, Gorshe et al. discloses an adaptive rate interface at each said end node for changing the transmit and receive rate of traffic from a fast rate to a slow rate during a protection switch and from the slow rate to the fast rate upon return to normal operation from the protection switch (Abstract, figure 1a, col. 5 lines 47-63).

One skilled in the art would have recognized an adaptive rate interface to use the teachings of Gorshe et al. in the system of Steven Chapman. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the adaptive rate interface as taught by Gorshe et al. in Steven Chapman's system with the motivation being to provide the flexible SONET access and transmission system (col. 5 lines 2-3).

For claims 27-31, Steven Chapman discloses wherein transition from said normal state to said squeezed state begins on receipt of STS path AIS (page 10 line 21 to page 11 line 2).

4. Claims 11-12, 14-15 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steven Chapman (GB 2286745A) in view of Sawey et al. (U.S. Patent 6,195,330 B1).

For claims 12 and 34-36, Steven Chapman disclose path protection in an SDH network, comprising:

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allocating a total bandwidth to traffic transmitted between the data terminals (page 13 lines 12-19);

distributing the total bandwidth between a first unprotected rout and a second unprotected route between the data terminals (page 13 lines 12-19);

transmitting unprotected traffic over the first route at a first transmission rate and unprotected traffic over the second route at a second transmission rate during normal operation of the transport network (figure 1, page 5 lines 2-4); and

detecting an interruption of the transmission of unprotected traffic over the first route (figure 2, page 11 lines 8-13).

However, Steven Chapman does not disclose upon detection of the interruption, switching the unprotected traffic from being transmitted over the first route to being transmitted over a second route. In an analogous art, Sawey et al. disclose upon detection of the interruption, switching the unprotected traffic from being transmitted over the first route to being transmitted over a second route (col. 8 lines 48-51).

One skilled in the art would have recognized a switch to use the teachings of Sawey et al. in the system of Steven Chapman. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the switch as taught by Sawey et al. in Steven Chapman's with the motivation being to compensate for the time delay between working and protect payload (col. 8 lines 50-51).

For claim 11, Steven Chapman discloses wherein said step of transmitting comprises operating said data terminals to provide load sharing between said two routes (figure 1, page 5 lines 1-4).

For claims 14 and 15, Steven Chapman discloses wherein said protection switch is operating at path sublayer of said transport network, and said first and second BW are allocated from the unprotected connections class (page 6 line 19 to page 7 line 21).

Allowable Subject Matter

5. Claims 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Response to Arguments

6. Applicant's arguments with respect to claims 11-12, 14-15, 18-31 and 34-36 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

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Toan D. Nguyen

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